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April 20, 2016

Phyllis Reed  
Darrington Ranger District  
1405 Emens Street  
Darrington, WA 98241

Sent via Email to: to: [comments-pacificnorthwest-mtbaker-snoqualmie-darrington@fs.fed.us](mailto:comments-pacificnorthwest-mtbaker-snoqualmie-darrington@fs.fed.us) and [plreed@fs.fed.us](mailto:plreed@fs.fed.us)

Dear Ms. Reed:

Enclosed are comments on the 2016 - 2017 Darrington Ranger District Projects scoping letter. One project would negatively affect Wilderness. The project is the Glacier Peak Data Collection project and comments are requested by April 20, 2016. Wilderness Watch is a national nonprofit wilderness conservation organization focused on protecting the National Wilderness Preservation System. We have serious concerns with this proposal. Please also review our letter of June 19, 2015 that also addresses some of these issues. Please include that letter in the project record for this proposal.

The proposal to install four “temporary” antennas with helicopters and drill core samples with motorized drills in the Glacier Peak Wilderness violates the Wilderness Act and cannot be allowed to advance as proposed. Section 4(c) of the 1964 Wilderness Act states: “there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.” (1964 Wilderness Act, 16 U.S.C. 1131-1136.)

This proposal notes:

**7. Glacier Peak Data Collection - contact Eric Ozog, Realty Specialist, 360-691-4396, Figure 5 Purpose and Need:** There is need for data collection that provides the basis for natural resource decisions, and for the provision of localized information which can detect changes in ecological systems. There is also a need to respond to the USGS request for a special use permit as per Forest Plan direction for land uses. The USGS, in collaboration with partners, is studying river hydraulics, sediment transport in rivers from the mountains to the ocean, the role of large wood in influencing river shape, impacts on the aquatic ecology and fish in rivers, and how river flooding worsens or improves over time, and is also gathering information to improve understanding of the eruptive history of the Glacier Peak volcano. Data collection would assist in the management of the Forest wilderness areas and the downstream communities, especially as it relates to public safety.

**Proposed Action:** This project would issue a special use permit for the USGS to install temporary Global Positioning Systems (GPS) antenna at two headwater stream systems of Glacier Peak and collect geophysical core samples needed for seismic monitoring of the volcano. The GPS antennas would be delivered on site by helicopter, with ground crews walking to the sites. The antennas would be in place for up to two weeks and then flown out by helicopter. The core sample collection would require the use of a small gas powered coring drill to retrieve approximately ten cores at each of eight sites. The cores are 1 inch in diameter and three inches long. Crews would carry the drill to the sites on foot and carry core samples out. The data collection is tentatively scheduled to begin in the summer of 2016.

**NEPA Document:** CE under 7 CFR 1b.3(a)(7): *Inventories, research activities, and studies such as resource inventories and data collection when such activities are clearly limited in context and intensity.*

**Decision Date:** July 2016

The scoping letter does not make the case that any of the prohibited actions in section 4(c) meet the narrow qualifications for exception. How does this preserve wilderness character? The scoping letter merely alleges it would help manage the “Forest wilderness” without explaining how the study or river hydraulics is a wilderness purpose. The Wilderness Act contains a narrow exception to allow otherwise-prohibited activities—such as helicopter, motorized core drill or placement of installations—only where such activities are necessary to meet the minimum requirements for administration of an area for the purpose of the Wilderness Act. 16 U.S.C. § 1133(c). In other words, the exception applies only where the otherwise-prohibited activity will affirmatively advance the “‘preservation and protection’ of wilderness lands ... in their natural, untrammelled state.” *Wilderness Soc’y v. U.S. Fish & Wildlife Serv.*, 353 F.3d 1051, 1061 (9th Cir. 2003) (en banc) (quoting 16 U.S.C. § 1131(a)). The Wilderness Act charges “each agency administering any area designated as wilderness [with the responsibility of] preserving the wilderness character of the area.” 16 U.S.C. § 1133(b).

Unsupported statements like in the scoping letter fall far short of what the Wilderness Act requires, which is to demonstrate that the project as proposed is necessary to preserve the wilderness character of the area. Unless the Forest Service can make and support this demonstration in its forthcoming analysis of the project, the project cannot proceed. (See also *Wilderness Watch v. U.S. Fish & Wildlife Serv.*, 629 F.3d 1024, 1040 (9th Cir. 2010)). This decision set aside the agency’s authorization of new structures built by motorized means in wilderness where the agency failed rationally to demonstrate that structures would advance wilderness preservation and no less intrusive approach could achieve that goal.

This proposal also violates the agency’s own policy on research in the Forest Service Manual at 2324.42 which states:

1. Encourage research in wilderness that preserves the wilderness character of the area (FSM 2320.3).
2. Identify wilderness management or national issues that may require research in forest plans.
3. Review proposals to conduct research in wilderness to ensure that research areas outside wilderness could not provide similar research opportunities. Direct projects that would jeopardize wilderness values to areas outside wilderness.
4. Review research proposals to conduct research in wilderness to ensure that research methods are compatible with wilderness values. Do not allow the use of motorized equipment or mechanical transport unless the research is essential to meet minimum requirements for administration of the area as wilderness and cannot be done another way (sec. 4(c) the Wilderness Act). Include specific stipulations in the approval document.

None of the above seems to apply here. The study of “river hydraulics, sediment transport in rivers” and the like is routinely done outside of Wilderness. Even studying “the eruptive history of the Glacier Peak volcano” does not have a clear wilderness purpose. Also, inferences about eruptive history may be drawn from non-wilderness volcanoes in the Cascades.

Even if the agency could shoehorn this proposal into the narrow exceptions, there must be an analysis to determine whether the proposal is indeed the minimum necessary for administration of the area as Wilderness. Since the cores are only three inches long, why can’t non-motorized sampling techniques be used? Why can’t the sampling of headwater streams be done in the field by humans? If an installation is the minimum necessary for preservation of the area as Wilderness, why can’t a more compact one be hauled to the sites without the use of a helicopter? Even the weight of the proposed equipment is not that great. The batteries only weigh 30 pounds. They could be packed into the wilderness by stock and carried to the final spots by foot. In any case, why isn’t the existing seismic station in the Wilderness the minimum necessary? In essence, the agency needs to answer this question: Why does the Forest Service believe that degrading the wilderness character of the Glacier Peak Wilderness by using motorized coring equipment and placement of installations, and all of the accompanying prohibited activities proposed to facilitate this placement and removal, is the minimum required for protecting the area’s wilderness character as required by the Wilderness Act?

In addressing the question of necessity, other factors should be considered. Are there alternatives for placement of the temporary installations outside of Wilderness? Are the rovers, which are referred to in the information about the temporary monitoring installations, intended to be placed in the Wilderness as well? What are the differences in the quality of monitoring data between the current monitoring station and the proposed monitoring installations? In other words, why can’t the current station or additional stations placed in non-wilderness areas provide adequate data? If this is indeed, necessary, why haven’t these installations already been made? Alternatively, the agency should hold off on any installations until there are indications that they are needed. For example, the Senate Committee report for the Mt. Baker Wilderness (Report 98-461) suggested it was acceptable to allow helicopter use to temporarily put up seismic stations, but only “If the mountain shows signs of volcanic activity in the future ...”<sup>1</sup> We would further point out that there is no statutory or committee language allowing these devices in the Glacier Peak Wilderness.

The Wilderness Act prohibits the landing of aircraft inside designated Wilderness. Additionally, Forest Service regulations prohibit the dropping of supplies, equipment, and personnel from aircraft in wilderness (see 36 CFR 293.6). The Forest Service Manual is clear in stating that convenience is not a factor that the Forest Service may consider in authorizing a non-conforming

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<sup>1</sup> We do not concur this activity is acceptable in Wilderness, as the committee report alleges it is. Indeed, this report seems at odds with the statute itself, so we would expect that it would be given no deference under the laws of statutory construction. The point is, the committee suggests a showing of need and did not suggest carte blanche authorization for seismic devices in the Mt. Baker Wilderness. Also, the committee requires compliance with rules and regulations. In any case, this is just the Senate committee report. No report was prepared by the House.

activity. Accordingly, the use of helicopters as envisioned would constitute another violation of the Wilderness Act, even if access via non-motorized and non-mechanized means would be difficult.

Just because the proposal may generate some interesting or potentially useful monitoring data does NOT give the Forest Service the green light to violate federal law. The standard imposed by the Wilderness Act for approving non-conforming activities of the type proposed is specific: The Forest Service must demonstrate that each nonconforming activity, structure, or installation, is necessary to meet the minimum requirements for administration of the area as wilderness. This proposal clearly violates the Wilderness Act, plain and simple, and must not be allowed to advance.

The scope of this project requires a full EIS under the National Environmental Policy Act. A categorical exclusion is inappropriate for a project that is a nonconforming use in Wilderness. If the Forest Service continues to consider this proposal in spite of its clear violation of federal law, the agency must conduct a full environmental impact statement (EIS) and consider a range of alternatives and carefully analyze each one. Ninth Circuit case law and the Forest Service's own management direction are clear – the Forest Service cannot use a categorical exclusion for actions within designated wilderness. *High Sierra Hikers v. Blackwell*, 390 F.3d 630, 641 (9<sup>th</sup> Cir. 2004)(noting that “the Forest Service’s own regulations do not permit the categorical exclusion of activities in wilderness areas.”). Additionally, the scoping letter contains no detailed analysis nor other alternatives that would help the public further evaluate this proposal.

Pursuant to NEPA’s implementing regulations, to determine whether an EIS is required, federal agencies may first prepare a less detailed environmental assessment. See 40 C.F.R. § 1501.4. An environmental assessment should consider several factors to determine if an action will significantly affect the environment, a circumstance that would mandate the preparation of an EIS. If the agency concludes the action will not significantly affect the environment, it must issue a “Finding of no Significant Impact” to justify its decision not to prepare an EIS. 40 C.F.R. § 1508.13. The Finding of No Significant Impact must provide a convincing statement of reasons why the action will not have a significant effect on the environment. *Id.* It is only when the proposed action will not have a significant effect on the environment that an EIS is not required. 40 C.F.R. § 1508.13. “[I]f substantial questions are raised regarding whether the proposed action may have a significant effect upon the human environment, a decision not to prepare an EIS is unreasonable.” *Save the Yaak Committee v. Block*, 840 F.2d 714, 717 (9<sup>th</sup> Cir.1998).

Again, we raise these above issues because Forest Service intends to do a CE on this project. Approving a prohibited action in Wilderness with a CE violates NEPA and the agency’s own CE regulations. Simply put, the use of motorized equipment, including helicopters, and even the placement of temporary installations has a negative impact on the Wilderness. In this case Wilderness is one of the extraordinary circumstances that triggers a more detailed analysis under NEPA precisely because prohibited methods and activities are proposed. (See 36 C.F.R. § 220.6)

In addition, the cumulative impacts from this proposal needs to be considered in light of last year’s Darrington scoping letter. That letter proposed projects in the Glacier Peak Wilderness that seemed to be very similar to this project. We have no record of having received notification


of whether the proposals from last year were approved. Are the proposals from both years being considered?

### Summary

If the Forest Service decides to continue its consideration of these proposals, a full EIS must be completed. Glacier Peak is unlikely to erupt in the next couple of years. The Forest Service needs to take its time and seek out alternatives that don't impair the wilderness character nor violate federal law.

Please keep Wilderness Watch on your contact list for this project. Please also send us a copy of the MRDG and any NEPA or decision documents as soon as they are completed.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Macfarlane", written in a cursive style.

Gary Macfarlane  
Board Member